

Portable Audio/Video Recorders

450.1 PURPOSE AND SCOPE

The use of recording devices is intended to enhance the mission of the Department by accurately capturing contacts between employees of the Department and the public. This policy provides guidelines for the use of portable audio/video recording devices by Department personnel while in the performance of their duties.

Currently, the Oxnard Police Department utilizes three types of portable recording devices:

- (a) Body-worn cameras (BWCs).
- (b) Digital audio recorders.
- (c) Video cameras.

This policy recognizes that there may be instances when the above listed recording devices may not be available. Although not the preferred method, other devices such as cell phones may be used to capture digital evidence.

At no time is an employee expected to jeopardize his/her safety in order to activate a recorder. In instances where employees are unable to record due to safety precautions, the recording should begin as soon as safely practical.

The Department recognizes that video images cannot always show the full story, nor do video images capture an entire scene. The use of portable recording devices does not reduce the requirement to provide thorough written documentation of an incident. Persons reviewing recordings must also be cautious before conclusions are reached about what the recordings show.

450.2 DEFINITIONS

- (a) Body-Worn Camera (BWC) - A camera worn on an individual's person that records and stores audio and video.
- (b) Video Cameras - Generally refers to handheld video recording devices.
- (c) Audio Recorders - Personal audio recording devices typically worn on an individual's person that records and stores audio.
- (d) Digital Evidence - Digital media files, including photographs, audio recordings and video footage, captured by a recording device is considered investigative material and stored digitally.
- (e) Buffering Mode – When a BWC is on but has not been activated to record both sound and video. While in the buffering mode, the camera will continuously record video only in 30 second loops.
- (f) Evidence Transfer System (ETM) - A portable multi-ported docking station used for the transfer of digital evidence. The BWC ETM simultaneously recharges the BWC while uploading all digitally encrypted data from the device. Other devices typically interface with a computer workstation for the transfer of digital evidence.

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- (g) Metadata - Case numbers, event/incident numbers, and other descriptors used to identify digital evidence.

450.3 PRIVACY

All recordings made by personnel acting in their official capacity as members of this Department shall be deemed property of the Department. These recordings should not be considered private, regardless of whether those recordings were made with department-issued or personally-owned recorders. The recordings will not be copied, released or disseminated in any form or manner outside the parameters of this policy without the express written consent of the Chief of Police or his/her designee.

450.4 EMPLOYEE RESPONSIBILITIES

All employees are responsible for making sure their portable recording devices are in good working order. Employees shall promptly, upon discovery, notify a supervisor if their equipment is not properly functioning and turn the malfunctioning equipment in to the Body Worn Camera Administrator for repair or replacement.

Whether the digital evidence is audio, video, or both, it is important to ensure the metadata is attached to each file. The employee must ensure the hardware has the correct date and time prior to using the device. If the designed systems for capturing this information is not working correctly, the employee will record his/her name, employee number, and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

Unless approved by a supervisor, employees shall upload all recorded files prior to ending their shift. The primary officer, as well as any officer who will be preparing a report will, at a minimum, enter the case report number for each recording.

Employees are generally discouraged from using personal devices such as phones and tablets to record during the course of duty. Any employee who uses a personally-owned recording device for department-related activities shall comply with the provisions of this policy manual, including retention and release requirements.

450.4.1 BODY-WORN CAMERAS

The BWC system is designed to capture both an audio and visual representation of events officers are involved with on a daily basis. The use of the BWC is the default method of capturing events listed under section 450.5.

- (a) User Responsibility

1. Ensure the battery on the BWC is fully charged and operating properly.
2. Officers shall position the BWC above the midline of their torso on their uniform to facilitate an optimum recording field of view.

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3. Officers shall keep the BWC powered on in buffering mode while on-duty, except during instances listed in section 450.5.1 (a-l). In certain tactical situations, officers may temporarily disable the visual (LED) and haptic (vibration) feedback on the BWC by placing the BWC into "stealth mode."
4. Officers shall dock their issued BWC for automated upload of data files daily prior to the end of their shift, at the docking station, to ensure storage capacity is not exceeded and/or to view uploaded audio/video.
5. Document the use of the BWC in police reports when a report is generated.
6. Once video is captured, officers shall identify BWC files by:
 - (a) Case number in the Case ID Field.
 - (b) Entering a title. The title should include sufficient information to identify the file, such as crime code, suspect name, location, event, etc.
 - (c) Selecting the appropriate category(s).
 - (d) This information may be entered via handheld device, MDC, or computer workstation via the Evidence.com website.

450.4.2 VIDEO CAMERAS ASSIGNED TO PATROL SUPERVISORS

Video cameras will be made available to Department personnel, for the purpose of documenting significant events. These cameras will be issued to patrol sergeants.

The following are situations where the use of a video camera should be considered:

- (a) Critical incidents
- (b) Demonstrations and civil unrest
- (c) Mobile Field Force deployments
- (d) S.W.A.T. deployments
- (e) Barricaded individuals
- (f) Uncooperative, potentially violent, or resistive subjects
- (g) Subjects demonstrating signs of excited delirium
- (h) Field investigations where appropriate

When sufficient personnel are present, on-scene supervisors shall delegate the use of a video camera to another officer or Department employee, in order to facilitate the appropriate supervision of the scene.

Video cameras shall only be used for official department-related activity and purpose. The use of video cameras in the field shall be guided by applicable laws related to a person's reasonable expectation of privacy.

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450.5 REQUIRED ACTIVATION OF AUDIO RECORDERS

This policy is not intended to describe every possible situation where use of portable recording devices may be appropriate. In most circumstances, the use of the BWC is the required device for capturing the events. The following are situations that require the use of a portable recording device:

- (a) All enforcement encounters where there is at least reasonable suspicion the person(s) has committed, is committing or may be involved in criminal activity. This includes, but is not limited to:
 - 1. Detentions, vehicle stops, pedestrian stops and consensual encounters.
 - 2. Probation, parole, post-release community supervision, mandatory supervision or consent searches, and 'knock and talks.'
- (b) Taking or attempting to take a person into custody (e.g., arrests, protective custody of mentally disturbed person, etc.).
- (c) Enforcement encounters where there is reason to believe that the individual is committing a violation for which a citation may be issued.
- (d) All incidents involving a use of force.
- (e) All public interaction, regardless of context, that escalates and becomes adversarial.
- (f) Service of search or arrest warrants.
- (g) Suspect statements.
- (h) Witness/Victim statements (when practical).
- (i) Code 3 driving operations.
- (j) Response to complaints or calls for service.
- (k) When transporting prisoners, detained subjects, and those people who are under criminal investigation.

450.5.1 WHEN ACTIVATION IS NOT REQUIRED

There are circumstances where video recording may not be appropriate:

- (a) A potential witness who requests to speak to an officer confidentially or desires anonymity.
- (b) A victim or witness who requests that he or she not be video recorded and the situation is not confrontational.
- (c) A victim who requests that he or she not be video recorded as a condition of cooperation and the interests of justice require such cooperation.
- (d) During tactical briefings, or the discussion of safety and security procedures.
- (e) Undercover officers, except in the course of criminal investigation.
- (f) Strip searches.
- (g) Public or private locker rooms, changing rooms, restrooms, unless taking the police actions stated in 450.5(a-k).

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- (h) Doctors' or lawyers' offices, unless taking the police actions stated in 450.5(a-k).
- (i) Medical or hospital facilities, unless taking the police actions stated in 450.5(a-k).
- (j) Other places where individuals unrelated to the investigation are present and would have a reasonable expectation of privacy, unless taking the police actions stated in 450.5(1-10).
- (k) The monitoring of persons based solely upon the person's political or religious beliefs or upon the exercise of the person's constitutional rights to freedom of speech and religious expression, petition and assembly under the United States and California Constitutions, or because of the content or viewpoint of the person's protected speech is prohibited.
- (l) Cold report calls are generally those calls for service where the suspect is not at the scene and there is a low probability of locating the suspect during the call for service.

In circumstances in which the officer chooses not to video record, the audio recorder shall be activated to comply with the situations listed under sections 450.5(a-k).

Once a portable recording device is activated, it shall remain on and shall not be turned off, paused, or muted until the incident or contact has concluded. An exception would be in situations where officers are engaged in a private conversation involving sensitive information (e.g. tactics being used to address an incident, information regarding or involving an informant and/or potential informant, etc.) or when interviewing multiple consecutive victims/witnesses (e.g. such as during a canvass).

450.5.2 WHEN TO DEACTIVATE

Recordings shall not be intentionally terminated until the conclusion of the encounter, except for tactical or safety reasons, or the encounter no longer holds evidentiary or investigative value. Any time the recording is terminated prior to the end of the encounter, the reason(s) should be documented on the portable recording device before deactivation.

Officers will use reasonable judgment in determining when to deactivate the BWC, such as when the purpose for activation is no longer present (examples include 1) An officer is assigned to an outer perimeter position for an extended period of time and has no verbal or visual contact with involved parties2) Officers have secured a prisoner and are completing paperwork outside the presence of the prisoner).

Keeping in mind that static situations may change rapidly, officers need to recognize it may be necessary to re-activate their BWC unexpectedly (example: Officers are assigned to an outer perimeter position with their cameras turned off, and a suspect exits the residence to surrender or run from police).

Officers shall deactivate the portable recording device when engaged in conversations with individuals with whom the officer is in a privileged relationship (e.g. spouse, attorney, police peer counselor, labor representative, minister, etc.). Officers will verbally indicate why the portable recording device is being deactivated and will re-activate the portable recording device at

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the conclusion of the private conversation, if the need for recording the police encounter or investigation still exists.

450.6 PROHIBITED USE OF PORTABLE RECORDERS

Employees are prohibited from surreptitiously recording any Department member without their consent, a court order, or unless lawfully authorized by the Chief of Police or designee for the purposes of a criminal investigation.

Employees are prohibited from using department-issued portable recording devices and recorded media for personal use, and are prohibited from making personal copies of recordings created while on-duty or while acting in his/her official capacity.

Employees are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally-owned recorders. Employees shall not duplicate or distribute such recordings, except for authorized legitimate Department business purposes. Unless for official business, recordings of any type shall not be posted to or distributed via the internet, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video and other file-sharing sites without prior approval from the Chief of Police. All such recordings shall be retained by the Department.

Department employees operating portable recording devices shall not record any person or situation based solely on race, ethnicity, sex, sexual orientation, disability or other classifications protected by law.

450.7 TRAINING WITH BODY-WORN CAMERA FILES

A BWC file may be utilized as a training tool for individuals, specific units, and the Department. Department members recommending utilization of a BWC file for training purposes will submit the recommendation and approval through the chain of command to their Division Commander.

Exceptions: Field Training Officers may use BWC files to provide immediate training to recruits and to assist with the completion of the Daily Observation Report (DOR). Supervisors may use BWC files to provide immediate training or counseling to an employee in a discrete environment.

450.8 RETENTION OF RECORDINGS

Any time a Department employee records any portion of a contact that the employee reasonably believes constitutes evidence in a criminal case, the employee shall record the related case number and download the file in accordance with the Policy Manual § 814 (Computers and Digital Evidence) and document the existence of the recording in the related report.

Any time a Department employee reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the employee should promptly notify a supervisor of the existence of the recording.

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In the event an employee unintentionally records a personal or private situation, the employee's supervisor or Watch Commander may allow the deletion of the recording, once it is determined to have no value for police-related matters.

450.8.1 RETENTION REQUIREMENTS

All recordings shall be retained for a period consistent with the requirements of the Department's records retention schedule, but in no event for a period less than 2½ years. Any recording associated with a case will be retained for the life cycle of the case.

450.9 RELEASE OF RECORDINGS

Recordings made using portable recording devices pursuant to this policy are Department records and may only be released as provided in Policy Manual § 810 (Release of Records and Information) or for other authorized legitimate Department business purposes.

450.10 REVIEW OF RECORDED MEDIA FILES

When preparing written reports or for oral statement or testimony, employees should review their recordings as a resource. However, employees should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors may routinely inspect recordings, provided that the inspections are reasonable, conducted in good faith, and not for the sole purpose of searching for violations of Department policy or law not related to a specific complaint or incident.

Recorded files may also be reviewed:

- (a) By any employee, his or her attorney or representative, who is participating in, as a subject or witness, an official investigation, such as a personnel complaint, administrative investigation or criminal investigation, if the subject officer's image or voice is captured on the recorded file or the officer was present during the incident.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief of Police or the authorized designee. In compliance with a public records request, if permitted, and in accordance with Policy Manual § 810.
- (d) In compliance with a public records request, if permitted, and in accordance with Policy Manual § 810.